

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6120

Tariff filing of Central Vermont Public Service)
Corporation requesting a 12.9% rate increase, to)
take effect July 27, 1998)

Docket No. 6460

Tariff filing of Central Vermont Public Service)
Corporation requesting a 7.6% rate increase, to)
take effect December 24, 2000)

PREFILED SURREBUTTAL TESTIMONY OF
DEENA L. FRANKEL
ON BEHALF OF THE
VERMONT DEPARTMENT OF PUBLIC SERVICE

April 20, 2001

Summary: The purpose of Ms. Frankel's testimony is to respond to the rebuttal testimony of CVPS witnesses Gregory A. White, John K. Lafaso and Scott R. Anderson with regard DPS recommendations concerning service quality monitoring, consumer protection and the application of CVPS Rate 2.

Prefiled Surrebuttal Testimony
of
Deena L. Frankel

1 Q. Please state your name and occupation.

2 A. My name is Deena L. Frankel, and I am the Director of Consumer Affairs & Public
3 Information for the Vermont Department of Public Service (“DPS”).
4

5 Q. Have you previously provided testimony in this case?

6 A. Yes, I submitted prefiled rebuttal testimony on March 9, 2001.

7 Q. What is the purpose of your surrebuttal testimony?

8 A. The purpose of my testimony is to respond to the rebuttal testimony of Central
9 Vermont Public Service (“CVPS” or “the company”) witnesses Gregory A. White, John
10 K. Lafaso, and Scott R. Anderson with regard DPS recommendations concerning service
11 quality monitoring, consumer protection and the application of CVPS Rate 2.

12 **SERVICE QUALITY & RELIABILITY PLAN**

13 Q. Do you agree with company witnesses’ White and Lafaso’s rationale for opposing
14 imposition of the Service Quality and Reliability Plan (“SQRP”)¹ you previously
15 recommended in this docket?

16 A. No, I do not. Mr. White and Mr. Lafaso offer five reasons why the Board should
17 not impose an SQRP (White/Lafaso pf. 3/30/01 at 3-4), none of which rebuts the
18 arguments I offered in direct testimony in support of the plan.

¹The SQRP was filed with my March 9, 2001, testimony in this docket as Exhibit DPS-dlf-
1.

1 The first reason they offer is that the company's service has not deteriorated. In
2 fact, none of the Vermont service quality plans cited in my direct testimony, including
3 those adopted for all Vermont telecommunications companies (Docket 5903), Adelphia
4 Cable (Docket 6101), Green Mountain Power (Docket 6107) and Verizon (Docket 6167)
5 involved investigations into alleged service quality deterioration or any significant
6 conclusion that such deterioration existed. The purpose of these plans is to ensure against
7 service quality deterioration.

8 Second, CVPS suggests the service quality plan should not be imposed because
9 the regulatory environment has not been restructured. They offer no clear explanation,
10 however, of the connection between a restructured environment (by which I assume they
11 mean retail choice) and an SQRP. Neither within Vermont nor around the nation does
12 there exist a necessary dependency between service quality monitoring and retail choice.
13 In Vermont, all four plans I have cited above have been established outside of the context
14 of industry restructuring. In other states, the Scottish Power-PacifiCorp merger is an
15 example of an SQRP imposed to ensure against service deterioration going forward
16 without restructuring. Further, although states have taken the occasion of restructuring to
17 adopt electric service quality indexes, these indexes apply not to competitive providers but
18 to the monopoly distribution company. Thus other states have seized the opportunity of
19 restructuring to get this important work done despite the fact that the plans apply to
20 companies that will continue to be monopoly providers.

21 It is unclear from Messrs. White and Lafaso's rebuttal testimony on page 7 why
22 incentives to cut costs are necessarily greater on monopoly distribution companies in
23 territories with retail choice, since PBR for monopoly discos is not a necessary feature of
24 restructuring. Pennsylvania, for example, imposed service quality and reliability
25 performance reporting on all monopoly discos in its restructuring without PBR. The
26 bottom line is that it is important to have service quality standards in a regulated or
27 unregulated environment.

1 The third reason CVPS opposes the SQRP is that this docket is a traditional cost
2 of service rate proceeding, not a performance-based ratemaking (PBR) case. The company
3 offers no evidence, however, to support a contention that service quality indices should be
4 applied only in the case of PBR. Again, of the four Vermont SQRPs currently in place,
5 only Verizon's involves an alternative regulation plan. In the GMP case, moreover, the
6 SQRP was adopted in a traditional rate case and applies to a company situated identically
7 to CVPS from a regulatory standpoint.

8 Fourth, the company suggests that an SQRP imposed by the Board is unnecessary
9 because CVPS has been aggressive in establishing internal service quality and reliability
10 performance measures. This reasoning misses several key differences between internal
11 quality monitoring and a publicly adopted plan with accountability to the public as well as
12 to internal management. There are several benefits of the plan proposed by DPS that
13 cannot be obtained from CVPS's internal measures.

14 Q. Can you tell us what they are?

15 A. Yes, an SQRP imposed by the Board will remain in place for a fixed period of time
16 without the company being able to change its metrics. This ensures the ability to measure
17 performance over time and, thus, to make "apples-to-apples" comparisons from year to
18 year. When a company makes choices about performance measurement based on its own
19 internal needs, it may make changes over time for a variety of reasons. For example, the
20 response to Interrogatory DPS 15-19 (Exhibit DPS-dlf-7) shows that the company made
21 changes in how it calculates customer satisfaction from measuring those who are
22 "completely satisfied" to measuring "overall satisfaction." Although in this case the
23 company offers the reasoning for the change that it wants to compare its own performance
24 to the Edison Electric Institute Residential Customer Satisfaction Survey, in other
25 instances companies may make such a change for public relations purposes or other
26 subjective reasons. The existence of a regulatory SQRP ensures against company-initiated

1 changes from year to year that make it impossible to compare a company's results over
2 time.

3 The proposed plan was carefully designed to ensure that improvements in one
4 aspect of service cannot be gained at the expense of another equally critical service
5 dimension. The company's internal metrics fail to achieve this balance. For example,
6 CVPS currently measures call answering, but fails to provide a rate of calls blocked from
7 its system. In such a case, a company could achieve its target answer performance by
8 limiting the number of calls that can reach its system without this action being detected by
9 the plan. I do not contend that CVPS has engineered its system to this end, but that the
10 lack of a busy rate measure makes such a result possible. Similarly, the company's internal
11 measures include answer performance during regular business hours, but no measure
12 designed to assess outage call handling during non-business hours. Outage call answering
13 is an aspect of performance that is particular critical to a large number of consumers, yet is
14 not measured comprehensively by the company's existing internal measures. These gaps
15 are reasons for the Board to impose a comprehensive service quality and reliability
16 monitoring plan.

17 Imposition of an SQRP by the Board has the additional advantage of ensuring
18 some comparability between the plans of the state's two largest electric utilities. Although
19 there are many differences in the details of the GMP SQRP adopted in Docket 6107 and
20 the plan proposed in this docket, the overall frameworks are largely similar. This
21 similarity will enhance the ability of the plans to inform the public about the relative
22 performance of the state's monopoly utilities.

23 In fact, the existence of a regulatory SQRP offers significant benefits in terms of
24 public confidence in utilities. For example, DPS is currently working with Verizon on a
25 press release concerning its first annual service quality results from the Docket 6167
26 SQRP. In this case, the results show that quality remained stable in 10 of 12 measures, and
27 that the one measure that involved a significant miss in service quality provoked a

1 concerted facilities upgrade effort by the company in the areas subject to the failure.

2 Q. You mentioned five reasons the company objected to the plan, and you have reviewed
3 four. What is the fifth?

4 A. The final reason CVPS offers for its opposition to a Board-imposed SQRP is that
5 such a plan intrudes into management prerogatives. My original rebuttal testimony clearly
6 establishes the Board's prior decisions that support both the Board's authority and past
7 support for promulgating service quality plans in circumstances no different than the
8 current ones. CVPS has failed to offer evidence to override those precedents.

9 Q. Do you agree with the company's arguments on page 9-10 of Messrs. Lafaso and White's
10 testimony opposing the inclusion in the SQRP of a provision requiring financial penalties
11 and/or incentives in a plan to be adopted at the end of the initial two-year plan?

12 A. No, I do not agree with the company's arguments. The plan DPS has
13 recommended does not specify the nature of the penalties and incentives. It only requires
14 that a successor plan include these elements. The company feels it is imprudent of them to
15 agree to penalties and incentives without having a known statutory framework. The
16 language I have recommended in the plan concerning future penalties and incentives is
17 deliberately broad to ensure that neither the company nor state regulators are bound to a
18 particular approach. At the relevant time, the parties will be able to work with the
19 framework that then exists.

20 The company objects that tying service quality to return on equity, is tantamount
21 to PBR. I disagree. Companies have an obligation under 30 V.S.A. §219 to "furnish
22 adequate service...." An SQRP is a means of measuring what "adequate" means and
23 whether companies are complying with the obligation. The Board has the authority to
24 enforce compliance with the provisions of Title 30 through various means, among them
25 through the imposition of a return-on-equity ("ROE") penalty, as it did against CVPS in

1 Docket 5701/5724. It follows therefore that the Board has the authority to enforce the
2 statutory service quality obligation of utilities through an ROE penalty.

3 Further, in the case of the SQRP that DPS has recommended, we are not
4 suggesting a specific approach to the penalties and/or incentives be imposed on the
5 company unless DPS and the company are unable to negotiate the matter.

6 Q. What is your response to the company's concern, expressed by Messrs. White and Lafaso
7 on page 10 of their rebuttal testimony, concerning the time frame for negotiating baselines
8 not included in the plan?

9 A. I understand their concern and want to revise my earlier recommendation
10 accordingly. I believe, however, that six months from the Board's order in this case is an
11 excessive period of time. The Board's order in the GMP rate case, Docket 6107, was
12 issued on January 23, 2001. The SQRP adopted in that case required the final plan to be
13 negotiated and submitted to the Board for approval on March 15, 2001. The parties found
14 this was an unworkably short period of time, but were able to submit the final plan on
15 April 13, 2001. In those cases where insufficient historical data existed to establish a
16 baseline, the GMP plan generally establishes what is to be monitored and requires the
17 company to begin collecting data, with the dates to establish remaining baselines built into
18 the final plan. There is no reason a similar approach could not be used in the instance of
19 CVPS. In light of our experience with GMP, I modify my recommendation for filing of the
20 "final" SQRP in this case from August 15, 2001, to October 23, 2001, which is three
21 months from the date the Board's order is due in this docket.

22 Q. What is your reaction to the company's objection, at page 10 of Messrs. White and
23 Lafaso's rebuttal testimony, concerning the service guarantee provision of the
24 recommended SQRP?

25 A. The testimony objects that "there is no apparent or well-defined problem" the

1 service guarantees are intended to address. The purpose of including a requirement for
2 service guarantees is to compensate consumers who are effected by failure to provide
3 timely service. This is especially important in the absence of other financial consequences
4 tied to performance, as will be the case during the life of the SQRP. Such service
5 guarantees are only paid to consumers in the event of a failure to provide timely service in
6 whatever manner the guarantee is defined in the plan. Thus it is possible for a company to
7 entirely avoid providing any credits simply by making realistic promises to consumers and
8 keeping those promises.

9 Various companies doing business in Vermont currently offer such service
10 guarantees, including Vermont Telephone, Adelphia, and Green Mountain Power². GMP's
11 service guarantees include \$10 credits where a customer's new or temporary service
12 installation is not completed within 10 business days from the date he or she is ready for
13 service, \$10 credits to customers whose disconnect/reconnect orders are not completed
14 within four business days of the order, and waiver of the \$18.75 fee for customers whose
15 move in/move out orders are not completed within three business days of the date
16 promised.

17 The company objects to a requirement for the service guarantees with a "lack of
18 definition regarding what type of services would be guaranteed" and a "lack of a
19 methodology for determining timely performance." (White/Lafaso pf. 3/30/01 at 11.) I
20 understand the company's concern, but point out that the recommended SQRP leaves the
21 actual design of the service guarantees entirely open to a proposal by the company of the
22 specifics. In fact, the GMP guarantees included in that company's final plan were
23 developed by the company based on its own knowledge of its systems and goals. Further,
24 the company feels the Board should consider further the specifics of the guarantees. In

²GMP's service guarantees are included in the final service quality and reliability plan filed with the Board on April 13, 2001, and will not be effective until the Board approves tariffs which must be filed by the company no later than May 14, 2001.

1 fact, the recommended plan requires the company to file necessary tariff amendments once
2 it has determined what service guarantees to offer, and the Board will then have the
3 opportunity to consider the specific tariff provisions the company proposes.

4 Q. What is your response to Messrs. White and Lafaso's rebuttal testimony on pages 12 and
5 13 concerning CVPS's methods of assessing overall satisfaction with the company?

6 A. I do not believe there is a conflict between what the company has proposed
7 regarding assessment of overall customer satisfaction and the provisions of Section IV (5)
8 (c) of the recommended SQRP (Exhibit DPS-dlf-1). The recommendation in the SQRP
9 doesn't specify exactly what questions are to be asked by the company in an annual
10 survey, but rather leaves this matter to be negotiated with the company.

11 That said, it is important the DPS and the company have an opportunity to
12 negotiate specifics of the survey process, rather than assuming it is adequate for the
13 company to continue surveying in precisely the way it has done in the past. As I testified in
14 my prefiled rebuttal (at 17), DPS has a number of concerns about the methodologies used
15 by the company's contractor, including response rates, call back methodology and the
16 reliability of data within certain segments. Although we may be satisfied once we have the
17 opportunity to discuss these matters with the company and the contractor, we cannot
18 conclude at the present that the company's survey methodology effectively measures the
19 recommended standard.

20 CONSUMER PROTECTION ISSUES

21
22 Q. What is your response to Messrs. White and Lafaso's rebuttal testimony at page 14-16
23 concerning the company's application of PSB Rule 3.302(G) regarding reasonable
24 payment arrangements?

25 A. The company objects to DPS's recommendation that Customer Service

1 Representatives (CSRs) be required in a more systematic way to apply the Board's criteria
2 for "reasonableness" in making payment arrangements. I agree that the ideal situation is
3 for CSRs to know the rules well and to apply them from a position of thorough
4 knowledge that does not require reliance on computer prompts. There are many reasons,
5 however, why it is not wise to assume the ideal exists.

6 Many companies use computer prompts, intranet guidelines, and other aids to help
7 CSRs remember the many complex policies and procedures they must apply. The need for
8 such tools, which is evidenced by the development of highly sophisticated customer
9 support intranets in many customer service operations, does not imply staff incompetence.
10 Rather, it reflects the fact that CSRs must keep track of many policies, some
11 of which
12 change from
13 time to time
14 and some of
15 which are
16 applied
17 relatively
18 infrequently.

19 The company may be concerned by my use of the word "script" in the remedy I
20 have recommended to the Board. I did not intend that CSRs would read from a canned
21 speech or script in each case. I intended only that the computer system used by the CSRs
22 be set up to contain a quick reference or checklist of the reasonableness criteria to ensure
23 that each and every consumer gets the benefit of the flexibility they are due under the rule.

24 I note that there was evidence in the earlier phase of Docket 6120 that the
25 company places some pressure on consumers to make payment arrangements that don't
26 take individual circumstances into account. In that case, DPS witness Chris Campbell
27 testified about the incompatibilities between the automated process of payment

1 arrangements through the integrated voice response (IVR) system and the requirements of
2 the PSB rules. Although the company has now made modifications to the IVR consistent
3 with Mr. Campbell's recommendation, it did not fully comply with the relevant portions of
4 the Docket 6120 Memorandum of Understanding, dated October 28, 1998, until DPS
5 served discovery upon the company in the current docket in February, 2001. The fact that
6 DPS had to address this issue in Docket 6120, and that the company was lax in
7 implementing promised corrective action, makes me concerned about their commitment to
8 consumers' rights with respect to reasonable payment arrangements.

9 CVPS contends that "reasonable means different things to different people."
10 (White/Lafaso pf. 3/30/01 at 15). In fact, the Board rule spells out quite clearly what
11 reasonable means. When consumers call DPS because they have been unable to work out
12 payment arrangements directly with a company, and their account suggests they have not
13 been asked anything about income, income schedule, the reason for the outstanding bill
14 and any unforeseen circumstances giving rise to the delinquency, a CSR may think he or
15 she has been reasonable in a subjective sense, but the transaction cannot be said to comply
16 with the Board's objective definition of "reasonable payment arrangement."

17 In light of the factors I have described, I believe the simple remedies I have
18 proposed – ordering the company to comply fully, requiring documentation of that
19 compliance and requiring integration of the reasonableness criteria into the computer-
20 based tools or system used by the CSRs – are reasonable in light of the importance of the
21 issue to consumers with payment problems.

22 Q. Do you agree with the company's argument beginning on page 16, line 13 of Messrs.
23 White and Lafaso's rebuttal testimony that the company should be allowed to use a check
24 box alone as proof that the criteria for reasonableness were applied?

25 A. DPS's goal in this matter is for the company to maintain notes that show what
26 transpired between a customer and a CSR so as to avoid a "he said, she said" situation

1 when consumers complain to DPS, or, for that matter, subsequently complain directly to
2 the company. Without such notes, all a check box indicates is that the CSR visited the
3 screen in question. DPS would agree that, if and when the CVPS record contains notes
4 describing the transaction with the consumer, the consumer affairs staff is able to balance
5 the consumer's and the company's account in resolving the complaint. Without those
6 notes, we perforce rely more heavily upon the consumer's account.

7 Q. How do you respond to the company's objection, beginning on line 9, page 17, of Messrs.
8 White and Lafaso's rebuttal testimony, to a requirement for affirmative inquiry concerning
9 the existence of an immediate and serious health hazard?

10 A. I disagree with the company that it is burdensome to ask each customer calling
11 about a disconnection whether disconnection would represent an immediate and serious
12 health hazard. Recent cases and CVPS responses to discovery do indicate, however, that
13 the company has taken remedial action regarding the application of the physician's
14 certificate. Therefore, I withdraw my earlier recommendation concerning a requirement of
15 affirmative notice. DPS will continue to monitor consumer complaints and will raise this
16 issue with the Board in another forum if complaints or other information indicates the
17 matter is again a problem.

18 With respect to the requirement for the company to maintain notes of how the
19 physician's certificate rules are applied, the arguments I have set out in the previous
20 question above apply equally in this instance and need not be repeated here.

21 Q. Do you agree with the company's argument, beginning on page 19, line 5 of Messrs.
22 White and Lafaso's rebuttal testimony, that its tariff governs the definition of "household,"
23 contrary to the provisions of PSB Rule 3.302 (F)?

24 A. No, I believe the company's witnesses are incorrect in this matter, although this is
25 certainly a legal issue. Nevertheless, because my role requires me to make determinations

1 about whether a utility is justified in its interpretation of the rules, I have had to become
2 very familiar with the issues at stake here.

3 There is no question that the company's tariff conflicts with so-called "household
4 rule," PSB Rule 3.302 (F). Messrs. White and Lafaso acknowledge this fact in their
5 prefiled rebuttal testimony beginning at line 11 on page 18, and proceed to point out that
6 the tariff treats the premises as the household whereas the rule treats the individuals as key
7 to defining the household.

8 Given that the company acknowledges the rule-tariff conflict, the only question is
9 which should govern. The company's tariff provision defining a household (see Exhibit
10 DPS-dlf-6) became effective February 22, 1985. The current PSB rule defining a
11 household became effective on January 2, 1990. PSB Rule 3.308(D) required utilities to
12 file tariff amendments to bring their tariffs in line with Board rules 120 days from the
13 January 2, 1990, effective date. In the case of the household rule provision of its tariff,
14 CVPS did not do so.

15 In Docket 5433, *Tariff filing of Central Vermont Public Service Corporation – In*
16 *Re: Revisions to its Deposit and Disconnection Rules*, the Board was asked by DPS to
17 invalidate certain portions of CVPS's tariff because the Department believed they were
18 inconsistent with PSB rules. In that case, where the Board agreed with DPS that the tariff
19 conflicted with the rule, it required modification of the tariff. (The household rule was not
20 one of the issues raised by DPS at that time.) Only where the rule is silent or where the
21 company explicitly obtains a waiver of the provisions of a rule does the tariff govern. The
22 company's tariff meets neither condition in this case.

23 Besides the legal issues involved, it makes good policy sense to enforce the
24 household rule as written. Despite the company's objection, the rule as written – i.e.,
25 defining the household as the people, not the premises – protects companies in some
26 instances just as it benefits consumers in some others. Exhibit DPS-dlf-8 consists of an e-
27 mail originally from PSB General Counsel Kurt Janson in response to a DPS query

1 regarding interpretation of the household rule. Notably, the opinion of Board staff
2 expressed in the e-mail supports DPS's interpretation of the household rule. I include the
3 message, however, for a different reason. It demonstrates the way the household rule
4 protects companies by allowing them to apply a delinquent bill to two people who
5 incurred the bill together and move together to a new premises. It also allows the
6 company to hold both Person A and Person B responsible for a delinquency they incurred
7 in a joint account when they move separately to new premises. In these instances, the rule
8 protects the company.

9 One of the roles DPS plays is to assist advocates for low income people, such as
10 the Community Action Programs, in understanding the provisions of the PSB Rules. One
11 tool we use for this purpose is the pamphlet, "Utilities and You." When companies are
12 allowed to maintain policies that conflict with the rules, it is very hard for the Consumer
13 Affairs & Public Information Division to fulfill its training and information role because we
14 cannot craft a consistent message in publications such as "Utilities and You" and must
15 instead point out exceptions from utility to utility. This becomes an important objection in
16 this instance because the company is not in compliance with the Board rule.

17 For the policy, legal and practical reasons I have cited, the Board should require
18 the company, as I have previously recommended, to revise its tariff bringing it in line with
19 PSB Rule 3.302(F).

20 Q. Are you aware of any other instance where the company's practice conflicts with PSB
21 Rules?

22 A. Yes, the company responded to a discovery request on March 22 indicating that it
23 disagrees with DPS's interpretation of PSB Rule 3.304 (C). The company stated in part,
24 "The second area of difference [from DPS's interpretation] is with V.P.S.B. Rule 3.304
25 Winter Disconnections section (C) – Additional notification during November 1st to March
26 31st." The company goes on to say that it believes the notice required by this section is

1 “the same disconnection notice that is required in V.P.S.B Rule and Regulation 3.303
2 Disconnection Notice Form.” Although it is ambiguous from this discovery response, my
3 division has worked with CVPS on complaints concerning this rule and it is clear from
4 actual practice that the company means here not the form of the notice but the
5 requirements surrounding its delivery. DPS believes that the company’s interpretation
6 violates the rule.

7 The rule concerning disconnection during the winter period requires special oral
8 notice (or an acceptable substitute outlined in the rule) when a consumer is to be
9 disconnected during the winter months (Paragraphs A and B). It further provides
10 (Paragraph C) that, after actual oral notification has been given once during the current
11 winter period, the company is relieved of the duty to provide further oral notification.

12 Companies must, in subsequent delinquencies after the oral notification, “deliver or
13 mail to the premises at which service is to be disconnected ... a notice containing the
14 information required by Section 3.303” (the section specifying the standard disconnection
15 notice form). Based on this language, the company apparently believes its obligation to
16 provide a disconnection notice in winter delinquencies subsequent to the one in which oral
17 notice is given ceases with its regular disconnection notice. In fact, the company’s
18 interpretation overlooks the subsequent language in the rule.

19 Although the form of the special winter disconnection notice in these
20 circumstances is the same as the regular notice, the rule requires that the notice be
21 delivered again in winter. It says “[d]elivery is complete (1) if made by person service,
22 upon actual delivery to the ratepayer or his premises at least 48 hours prior to the
23 disconnection, not counting Vermont Holidays, and (2) in the case of notice by mail, by
24 deposit of the notice at any United States post office, postage prepaid, at least four days
25 prior to disconnection....” (PSB Rule 3.304 (C))

26 Despite the explicit time line in 3.304 (C) quoted above, which is entirely different
27 from the time line for the regular notice contained in PSB Rule 3.301(C), the company

1 does not believe it is required by the rules to serve an additional notice 48 hours prior (in
2 person) or four days prior (if by mail) to the disconnection during the winter. I cannot
3 understand how, given the existence of these special time frames, within the section on
4 special winter disconnection provisions, the company can conclude that the regular notice
5 required to be sent 14 to 20 days prior to disconnection can serve to satisfy this section of
6 the rule.

7 I believe all that is necessary for the Board to do in this matter is to issue a ruling
8 that, in fact, an additional winter notice beyond the disconnection notice defined in
9 3.301(C) is required by 3.304(C).

10 Q. Do you agree with CVPS witness Anderson's opinion (Anderson pf. 3/30/01 at 1) that the
11 Board should not address the issues you raise in your rebuttal testimony of 3/9/01
12 regarding the company's Rate 2 because this is a rate case, not a rate design proceeding?

13 A. I disagree with Mr. Anderson. Neither Mr. Anderson nor any company witness
14 rebuts my testimony concerning the apparent unfairness of the way the company moves
15 customers with home businesses from Rate 1 to Rate 2. (See Frankel pf. 3/9/01 at 25-26
16 for a description of the company's practice.) The remedies I have proposed for this
17 problem affect neither the rate nor the rate design, but simply the treatment of customers
18 in determining whether or not they meet existing criteria.

19 My rebuttal testimony addresses an issue of fairness to customers and unintended
20 consequences of the company's rate design given an increase in the number of people
21 making their living working at home. These are appropriate matters for a rate case in
22 which it is expected that the manner in which the company administers its tariffs is a
23 subject of investigation.

24 Q. How do you respond to Mr. Anderson's concern that no changes should be made in Rate
25 2 because their revenue impact is unknown?

1 A. Again, my intent is to identify an apparent unfairness in the company's current
2 policy and practice. The purpose of a rate design is to match usage pattern with rate class.
3 The company's rate 2 produces an opposite result. The following hypothetical example
4 illustrates my point.

5 Mrs. Smith and Mrs. Jones are next door neighbors living in homes of the same
6 size, each with a computer and a stove among other appliances. Mrs. Smith runs an
7 bookkeeping business out of her home and has a sign in front, so the company puts her on
8 Rate 2. Estimating usage by reading the appliance name plates, Mrs. Smith's stove alone
9 exceeded the 8kW connected load requirement, so the company put a demand meter on
10 her home. She exceeded 5kW and is now subject to the demand component of Rate 2 as
11 well as the higher rate as compared to her Rate 1 neighbor.

12 Mrs. Jones cooks and bakes a lot but she doesn't have a home business. Her
13 connected load also exceeds 8kW, and, if her demand were measured, she would exceed
14 5kW. Yet Mrs. Jones does not qualify for Rate 2 because she has no home business. Thus
15 these two neighbors, with very similar usage characteristics, are subject to different rates,
16 Mrs. Smith's being higher than Mrs. Jones.

17 I agree with Mr. Anderson that the revenue impact of correcting this inequity is
18 not known. The important result is to correct the inequity. An appropriate alternative to
19 specifying the solution in this case would be to order the company to determine the extent
20 of the problem and to propose to the Board an alternative that corrects the inequity by a
21 date certain. Pending that action, however, the Board should require the company to use
22 the objective criterion I have proposed in my testimony of March 9, 2001, to reduce the
23 arbitrariness of moving consumers with home businesses to Rate 2.

24 Q. Does Mr. Anderson accurately characterize your proposed test to be used in determining
25 whether a consumer with a home business is moved from Rate 1 to Rate 2?

26 A. No, he mischaracterizes my proposal. He states that I have proposed a test based

1 on 1,800 kW of actual usage. In fact, my testimony is that the consumer should have the
2 opportunity to prove, using a federal income tax return, that less than 50 percent of the
3 home is used for business purposes. I anticipated the company might protest that space
4 usage and electricity usage were not necessarily correlated, and therefore would want to
5 be able to challenge the appropriateness of Rate 1 for a customer who has a home
6 business, uses less than 50 percent of the home for that business (based on the federal
7 income tax return), but has high monthly usage. My choice of the 1,800 kWh threshold
8 was not arbitrary. It was based on the fact that the company already uses 1,800 kWh in
9 different but related test of whether the customer meets the demand level for general
10 service.

11 I do not propose that consumers qualify for Rate 2 simply by virtue of 1,800 kWh
12 usage. My suggestion is that this threshold was to be applied if and only if a consumer is
13 operating a home business, is predominantly residential according to their income tax
14 return, but the company believes usage is high and insists on an alternative test.

15 I believe that persons operating home businesses today are very likely to have
16 usage patterns that look just like their purely residential neighbors, and that the Federal
17 income tax-based definition should be sufficient. If the company feels the 1,800 kWh test
18 is arbitrary, relying solely on the income tax-based test would be entirely appropriate and
19 desirable until the company more comprehensively resolves the apparent inequities of Rate
20 2 for home businesses.

21 Q. Does that conclude your testimony?

22 A. Yes it does.